IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Appeal No. 316 of 2005
in
Writ Petition No.455 of 2005
with
Notice of Motion No.1006 of 2005

MARS Enterprises ..Appellants

vs.

Municipal Corporation of
Greater Mumbai ..Respondents

Mr.Rajiv Narulla for appellants
Mr.Vasant Mahadik for respondents.

CORAM: A.P.SHAH &
S.J.VAZIFDAR JJ.
20th April, 2005

P.C.

1. Heard both sides.

2. Mr.Narulla, learned Counsel for the appellants submitted that the Small Causes Court has limited jurisdiction and can only decide about the quantum of rateable value and that it has no jurisdiction to pass the order granting restoration of water connection as the grant of water connection is the issue which cannot be decided by the Small Causes Court. The learned counsel also submitted that the question whether the water charges could be levied or not in absence of non supply of water could not be considered by the Small Causes Court. He placed reliance on the decision of a learned single Judge of this Court (Kotwal J.) in Bombay Municipal

Corporation Vs. Ramesh G.Patel and others; 1984 Mh.L.J.369. He also relied upon the judgment of the Supreme Court in Municipal Corporation of Greater Bombay Vs.Nagpal Printing Mills and another; AIR 1988 S.C.1009.

3. We have perused the impugned order. It is seen that the contentions of the appellants are not considered by the learned single Judge and the petition has been dismissed solely on the ground that remedy of an appeal has been resorted by the appellant under sec.217 of the B.M.C.Act, 1888. In the circumstances we set aside the impugned order and remit the matter back to the learned single Judge for deciding the same in accordance with law. The matter be placed before the learned single Judge taking these matters.

4. Appeal is allowed in the above terms.

5. In view of the order in appeal notice of motion does not survive and hence disposed of.